

Rules of Department of Revenue

Division 40—State Lottery

Chapter 70—Suspension, Revocation and Denial of Licenses

Title	Page
12 CSR 40-70.010 Right to Present Evidence	3
12 CSR 40-70.020 Director to Give Detailed Reason for Action	3
12 CSR 40-70.030 Time and Manner for Submitting Evidence	3
12 CSR 40-70.040 Effect of Action and Submission of Evidence	3
12 CSR 40-70.050 When Action Effective Immediately.....	3
12 CSR 40-70.060 Right to Review Evidence of Director	4
12 CSR 40-70.070 Additional Evidence—Right to Respond	4
12 CSR 40-70.080 Decision of the Director	4
12 CSR 40-70.090 Record of the Director	4

Title 12—DEPARTMENT OF REVENUE

Division 40—State Lottery

Chapter 70—Suspension, Revocation and Denial of Licenses

12 CSR 40-70.010 Right to Present Evidence

PURPOSE: This rule provides for submission of evidence by licensees whenever the director suspends, revokes or devises a retail license or terminates a contract with any lottery vendor.

(1) Whenever the director suspends, revokes or denies a retail license or terminates the contract of any lottery vendor, the licensee or vendor (hereafter licensee) who is aggrieved by the action shall have a right to present anything bearing upon the suspension, revocation, denial or termination as provided in this chapter.

(2) Any proceeding under this chapter shall be a noncontested case and reviewable under section 536.150, RSMo (1986).

(3) For purposes of this chapter, the denial of a license shall include the refusal to renew a license after application by any licensee. Denial of a license shall not mean the failure to exercise any option contained in a contract for goods or services.

AUTHORITY: section 313.220, RSMo 1986. Original rule filed April 9, 1986, effective April 19, 1986.*

**Original authority: 313.220, RSMo 1985, amended 1988, 1993, 1995.*

12 CSR 40-70.020 Director to Give De- tailed Reason for Action

PURPOSE: This rule provides for the director to give detail reasons for suspension, revocation or denial of a license.

(1) The director shall give reasons for the suspension, revocation or denial of any license, including the nonrenewal of any license as provided in section 313.265.

(2) The notice of action shall contain—

(A) The detailed facts on which the director relies in suspending, revoking or denying any license; and

(B) The statutory authority on which the director relies.

AUTHORITY: section 313.220, RSMo 1986. Original rule filed April 9, 1986, effective April 19, 1986.*

**Original authority: 313.220, RSMo 1985, amended 1988, 1993, 1995.*

12 CSR 40-70.030 Time and Manner for Submitting Evidence

PURPOSE: This rule provides the time limit for submitting evidence or statements and the form for submissions and provides for one extension.

(1) All evidence or statements submitted under 12 CSR 40-70.010 shall be in written or documentary form and shall be delivered to the Missouri Lottery within thirty (30) days of the receipt of the notice provided in 12 CSR 40-70.020.

(A) Documents may be submitted in dry duplication form.

(B) Witness testimony may be by affidavit or typewritten summary and must contain the name, address and telephone number of the witness. If the name, address and telephone number are unknown, the affidavit or summary shall state the fact together with how the facts became known to the licensee.

(C) The licensee may submit a statement in explanation or mitigation under 12 CSR 40-70.010.

(2) Upon the receipt of the licensee, the director may grant one (1) extension of an additional thirty (30) days for the submission of evidence.

(A) A request for extension shall contain the reason for the extension.

(B) Within five (5) business days of the request for extension, the director shall notify the licensee within five (5) days of his/her decision.

(3) For purposes of this rule, any submission will be considered received by the director at the earlier of—

(A) The actual receipt of the submission; or

(B) The postmark date appearing on any submission.

AUTHORITY: section 313.220, RSMo 1986. Original rule filed April 9, 1986, effective April 19, 1986.*

**Original authority: 313.220, RSMo 1985, amended 1988, 1993, 1995.*

12 CSR 40-70.040 Effect of Action and Submission of Evidence

PURPOSE: This rule provides for the effect of a request for a hearing.

(1) Except as provided in 12 CSR 40-70.050, any action which the director proposes to take shall not take effect until the expiration of the thirty (30)-day period in which the licensee may file evidence under 12 CSR 40-70.030 including any extension granted under 12 CSR 40-70.030.

(2) Except as provided in 12 CSR 40-70.050, any submission under 12 CSR 40-70.010 shall stay any action until the final decision of the director.

AUTHORITY: section 313.220, RSMo 1986. Original rule filed April 9, 1986, effective April 19, 1986.*

**Original authority: 313.220, RSMo 1985, amended 1988, 1993, 1995.*

12 CSR 40-70.050 When Action Effective Immediately

PURPOSE: This rule authorizes the suspension or revocation of any license prior to a hearing in certain instances.

(1) A suspension or revocation of the license(s) any licensee shall have immediate effect when the director has reason to believe—

(A) The licensee has obtained the license by fraud, trick, misrepresentation or concealment of any material fact;

(B) The license was issued to any person through inadvertence or mistake and the licensee was not qualified under section 313.260, RSMo (1986); or

(C) The licensee has failed to remit any sales proceeds required to be remitted to the Missouri Lottery or has endangered the security of the lottery operation or any lottery game.

AUTHORITY: section 313.220, RSMo 1986. Original rule filed April 9, 1986, effective April 19, 1986.*

**Original authority: 313.220, RSMo 1985, amended 1988, 1993, 1995.*

**12 CSR 40-70.060 Right to Review Evidence of Director**

PURPOSE: The purpose of this rule provides for a request by the licensee to review evidence upon which the director's proposed action is based.

(1) Upon request of any licensee aggrieved by a notice of action of the director, the licensee shall have the right to inspect or obtain any copies of documentary evidence of reports relied on by the director.

(2) A request under this rule must be made within the time provided in 12 CSR 40-70.040(1).

(A) If the request is received by the director within fifteen (15) days of the mailing of the notice of action, the time for submission by the licensee shall be twenty-five (25) days from the date of mailing of the documents or summary provided under section (1).

(B) If the request is received by the director between fifteen and thirty (15-30) days of the mailing of notice of action, the time for submission by the licensee shall be ten (10) days from the date of mailing of the documents or summary provided under section (1).

AUTHORITY: section 313.220, RSMo 1986. Original rule filed May 5, 1986, effective May 15, 1986.*

**Original authority: 313.220, RSMo 1985, amended 1988, 1993, 1995.*

12 CSR 40-70.070 Additional Evidence—Right to Respond

PURPOSE: This rule provides under what circumstances the director may consider additional evidence and provides a right to review and respond to evidence.

(1) If any additional evidence comes to the attention of the director after the notice of action has been mailed, s/he may not consider that evidence unless—

(A) The licensee is given written notice of the director's intention to rely on the evidence; and

(B) The licensee is given an opportunity to review and respond to the evidence.

(2) Written notice under section (1) of this rule shall contain copies of any documents or summaries of any witness testimony on which the director intends to rely.

(3) The licensee shall have fifteen (15) days from receipt of the notice provided in this rule to respond to any additional evidence. The fifteen (15)-day period shall be independent of any other time limit in this chapter.

AUTHORITY: section 313.220, RSMo 1986. Original rule filed April 9, 1986, effective April 19, 1986.*

**Original authority: 313.220, RSMo 1985, amended 1988, 1993, 1995.*

12 CSR 40-70.080 Decision of the Director

PURPOSE: This rule describes the decision of the director.

(1) The director shall issue his/her decision in writing. The decision shall include findings of fact and conclusions of law.

(2) The decision shall be mailed to the licensee and to his/her attorney, if any.

(3) Except for suspension or revocation under 12 CSR 40-70.050, the suspension, revocation or denial shall be effective on the date the director renders his/her decision.

(4) In the case of a suspension or revocation under 12 CSR 40-70.050, if the decision is favorable, the licensee shall be reinstated on the date the director renders his/her decision. If the decision is a suspension for a period of time, the time between the notice of action and the decision shall be counted as part of the suspension period.

AUTHORITY: section 313.220, RSMo 1986. Original rule filed April 9, 1986, effective April 19, 1986.*

**Original authority: 313.220, RSMo 1985, amended 1988, 1993, 1995.*

12 CSR 40-70.090 Record of the Director

PURPOSE: This rule describes the record of the director.

(1) The official record of the proceedings shall be the notice of action, all documents and witness summaries relied on by the director, all documents, affidavits and witness summaries submitted by the licensee, if any, notice of additional evidence sent under 12 CSR 40-70.070, and the decision.

(2) In the event that judicial review of the director's decision is sought, the director

shall certify the record to the reviewing court.

AUTHORITY: section 313.220, RSMo 1986. Original rule filed April 9, 1986, effective April 19, 1986.*

**Original authority: 313.220, RSMo 1985, amended 1988, 1993, 1995.*